TITLE 327 WATER POLLUTION CONTROL BOARD

FIRST NOTICE OF COMMENT PERIOD
#02-138(WPCB)

DEVELOPMENT OF A NEW RULE CONCERNING STATEWIDE MERCURY VARIANCE

PURPOSE OF NOTICE
   The Indiana Department of Environmental Management (IDEM) is soliciting public comment on the development of a new rule concerning a statewide variance from the water quality standard for mercury. IDEM seeks comment on the affected citation listed and any other provisions of Title 327 that may be affected by this rulemaking.

CITATIONS AFFECTED: 327 IAC 2.

AUTHORITY: IC 13-13-5-1; 13-13-5-2; IC 13-14-8; 13-14-9; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2; IC 13-18-3-3; IC 13-18-4-3.

SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING
   The subject matter of this rulemaking has been included in other notices of rulemaking, the most recent of which was a first notice in the May 1, 2001, Indiana Register (24 IR 2593). Although that first notice (#01-135(WPCB)) addressed variances from water quality standards, it was more closely related to the current variance process whereby an applicant may submit an application for a variance from a water quality criterium for a specific pollutant or pollutant parameter. Based on comments received to the May 1, 2001, first notice as well as continued discussions about the most efficient method to conduct the rulemakings required under Section 303(c) of the Clean Water Act (known as "triennial review"), IDEM has determined that a separate rulemaking on a statewide mercury variance is a necessary course of action. Amendments to variance rules for pollutants other than mercury will be conducted under #01-135(WPCB), the rulemaking initiated with the May 1, 2001, first notice.

STATUTORY AND REGULATORY REQUIREMENTS
   IC 13-14-8-4 requires the board to consider the following factors in promulgating rules:
   (1) All existing physical conditions and the character of the area affected.
   (2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.
   (3) Zoning classifications.
   (4) The nature of the existing air quality or existing water quality, as the case may be.
   (5) Technical feasibility, including the quality conditions that could reasonably be achieved through coordinated control of all factors affecting the quality.
   (6) Economic reasonableness of measuring or reducing any particular type of pollution.
   (7) The right of all persons to an environment sufficiently uncontaminated as not to be injurious to human, plant, animal, or aquatic life or to the reasonable enjoyment of life and property.

REQUEST FOR PUBLIC COMMENTS
   At this time, IDEM solicits the following:
   (1) The submission of alternative ways to achieve the purpose of the rule.
   (2) The submission of suggestions for the development of draft rule language.
   Mailed comments should be addressed to:
      #02-138(WPCB)[Mercury Variance]
      MaryAnn Stevens
      Rules Section
      Office of Water Quality
      Indiana Department of Environmental Management
      P.O. Box 6015
      Indianapolis, Indiana 46206-6015.
Hand delivered comments will be accepted by the IDEM receptionist on duty at the twelfth floor reception desk, Office of Water Quality, Indiana Government Center-North, Room 1255, 100 North Senate Avenue, Indianapolis, Indiana. Comments may be delivered by facsimile to (317) 232-8406. Please confirm the timely receipt of faxed comments by calling the Office of Water Quality Rules Section at (317) 233-8903.

COMMENT PERIOD DEADLINE

Comments must be postmarked, faxed, or hand delivered by June 30, 2002.

Additional information regarding this action may be obtained from MaryAnn Stevens, Rules Section, Office of Water Quality, (317) 232-8635 or (800) 451-6027 (in Indiana).

Tim Method
Deputy Commissioner
Indiana Department of Environmental Management